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BY CM/ECF

The Honorable Cheryl L. Pollak
United States Magistrate Judge
United States District Court
for the Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Toussie v. Allstate Insurance Company, Case No. 1:15-cv-5235-ARR-PK*

Dear Magistrate Judge Pollak:

We write on behalf of Allstate to apprise the Court of events since the Thursday June 20, 2019 conference in this action, including Plaintiffs' failure to comply with the Court's Orders.

Prior Document Productions: Allstate has provided Plaintiffs with electronic access to all previously exchanged documents in the case (including non-party productions), and the Tutwiler deposition transcript, in accordance with the Court's ECF Minute Entry Order of June 20, 2019 (the "June 20 Order"). Allstate has copies of over the 25 hours of video and roughly 2,000 photographs Plaintiffs took at CFASS while Allstate's counsel was investigating the contents of Plaintiffs' boxes. It was unclear at the conference whether Plaintiffs were asking for copies of this material too, which will be time consuming and expensive. We do not see why obtaining another copy of this material is a priority for Plaintiffs to move the case along, but if Plaintiffs want it, Allstate can determine what it will cost to make copies.

Tax Records/Declaration: Mr. Stern left the courthouse on Thursday without handing Allstate's counsel a copy of the Declaration he was holding in his hand during the conference, supposedly a Declaration that his client, Robert Toussie, purports to use to satisfy his obligation to comply with the Court's Orders compelling production of the tax returns and responses to interrogatories.

I sent Messrs. Stern and Hamburger an email on Thursday afternoon reminding Mr. Stern to deliver the Declaration to Allstate and reminding Mr. Hamburger that his client, Laura Toussie, has an independent obligation to comply with the Court's Orders. They both ignored my email.

Plaintiffs and their counsel also appear to have ignored the Court's June 20 Order, which requires that "by 6/21/2019, plaintiffs to provide counsel with Declaration re tax returns pursuant to the existing confidentiality order; copy to the Court under seal." No Declaration was served or filed, to our knowledge.

Mr. Hamburger did send Allstate's counsel a letter on June 21, 2019 stating that Laura Toussie "joins in the factual presentation and contentions set forth in the Declaration of Robert Toussie regarding both Document Demand No. 6 and Interrogatories Nos. 10, 11, and 12." So Laura Toussie purports to join in a document that Allstate has never seen and that has not been served or filed. Regardless, Mr. Hamburger's letter does not explain why his client should be excused from the Courts' Orders by relying on another plaintiff's purported response to those Orders.

Plaintiffs have been required, since May 13, 2019, to (a) produce the requested tax returns or "submit an affidavit indicating that they have not filed any tax returns for the years 2012, 2013, 2014, and 2015 that refer to their losses from Hurricane Sandy," and (b) respond to Allstate's interrogatories numbers 10, 11, and 12. (2/6/19 Report & Recommendation, Dk. 249, p. 42, *adopted in full*, 5/13/19 Order, Dk. 257, p. 16 (granting the motion to compel "on the same terms as Judge Pollak recommended," and permitting an affidavit as a substitute for the tax returns "if the Toussies possess no responsive documents.")) Counting Your Honor's June 20 Order, Plaintiffs have now defied two Orders of the Court in not producing the documents.

Respectfully,



Gary Meyerhoff

cc: All parties of record (via ECF)